



DEPARTMENT OF THE NAVY

HUMAN RESOURCES OFFICE
NEW ORLEANS, LA 70142-3200

MASTER
COPY

IN REPLY REFER TO:

HRONOLAINST 12810.1
Code 03

SEP 29 1994

HRONOLA INSTRUCTION 12810.1

Subj: INJURY COMPENSATION PROGRAM

Ref: (a) 5 USC 8101
(b) 20 CFR 10
(c) CPI 810

1. Purpose. To provide information on the Federal Employees Compensation Act and to ensure compliance with references (a), (b), and (c).

2. Background. References (a), (b), and (c) provide regulatory and policy information on this subject. These references are available for review in the Human Resources Office (HRO). This instruction provides operational information to HRO New Orleans serviced commands and labor organizations. It also serves as notice for appropriate bargaining purposes as specified in applicable labor agreements.

3. Information. The Federal Employees Compensation Act (FECA) provides for full medical care, compensation for disability, and other benefits for civilian employees who are injured or develop an illness as a result of their duties. FECA also pays funeral and burial expenses and monetary benefits to dependents if the injury or illness causes the employee's death.

a. FECA provides the exclusive remedy for recovery of damages from the United States for employees who are injured or die as a result of performance of their duties.

b. FECA benefits may not be paid if the injury, illness, or death is caused by the employee's own willful misconduct; by his/her intention to bring about the injury, illness, or death of self or another person; or if intoxication or use of illegal drugs by the injured employee is the immediate cause of the injury, illness, or death.

c. Disciplinary action, fines, or criminal prosecution may be taken against any person who:

(1) makes a false statement to obtain compensation or who accepts compensation payments to which he/she is not entitled; or

(2) willfully fails, neglects, or refuses to make a report in connection with an injury; knowingly files a false report; induces, compels, or directs an injured employee to

THE DISTRIBUTION LIST FOR THIS
DIRECTIVE HAS BEEN REVIEWED.

[Signature]
R.A. Van Dyke

HRONOLAINST 12810.1

forego filing a claim; or willfully withholds any notice, report, or paper required in connection with an injury.

4. Guidance and Assistance. The Injury Compensation Program Administrator (ICPA), HRO New Orleans, is available to answer any questions related to FECA.

5. Responsibilities

a. FECA is administered by 12 district offices of the Department of Labor (DOL), Office of Workers' Compensation Program (OWCP), which adjudicate claims within specified areas. Neither HRO nor the employing activity is authorized to accept or deny claims.

b. The Director, HRO New Orleans, is designated as the official responsible for assuring that FECA obligations are discharged for those activities serviced by HRO.

c. Activity heads are responsible for reducing compensation and Continuation of Pay (COP) costs by returning injured employees to duty as soon as possible. Commands are required to establish Return-to-Work (RTW) Programs which afford light or limited duty work and/or reasonable accommodation of physically and mentally handicapping conditions which are job-related. See paragraph 12 of this instruction for more information on the RTW Program.

d. The ICPA is responsible for ensuring internal FECA program responsibilities are carried out. These responsibilities include providing prompt assistance to employees and their immediate supervisors in all job-related injury cases; establishing and maintaining a tracking and recording system for proper claims management; working with supervisors and other civilian personnel staff to assist in returning injured employees to duty as soon as possible; referring cases of suspected fraud to the appropriate investigative authorities and DOL; and arranging and conducting FECA training.

6. Traumatic Injury Procedures

a. Definition. A traumatic injury is defined as a wound or condition of the body caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. The injury must be caused by a specific event or incident or series of events or incidents within a single work day or work shift.

b. Employees

(1) An employee is to report any job-related injury immediately to his/her supervisor, regardless of whether or not the "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation" (Form CA-1) is completed at that time. The CA-1 should be completed as soon as possible. An employee's claim for COP may be denied if the employee has not filed Form CA-1 within 30 days of the injury. If the employee is unable to notify the supervisor, he/she should arrange for notification on the employee's behalf within 5 working days of the date of injury.

(2) An employee who cannot work because of a disabling, job-related traumatic injury receives COP for the period of non-work, not to exceed 45 calendar days. If COP is exhausted, employees may receive compensation payments from DOL for continued loss of wages due to injury. A written statement from the attending physician that the employee is medically unable to return to work is a prerequisite for payment of COP/compensation. Compensation may be denied if the employee does not file a written claim for compensation within 3 years of the date of the injury, unless the employee's supervisor at the time of injury can state that he/she had actual knowledge of the injury within 30 days from the date of injury. Compensation costs paid by DOL are charged to the activity or its headquarters command.

(3) The injured employee is required to return to work as soon as medically permissible. If unable to return to work, the employee is to notify the supervisor or designee of his/her unavailability and provide the RTW date established by the physician.

(4) The employee must report for all scheduled medical appointments. Any fees for missed appointments are the employee's responsibility.

(5) Following each doctor's visit the employee is to contact the supervisor and inform him/her of status. If unable to work as a result of the job-related injury, the employee must also notify the HRO ICPA.

(6) The employee is expected to return to work on the day indicated by the attending physician.

(7) The employee must obtain prior permission from OWCP for any surgery, other than emergency surgery, and medical equipment. The attending physician or hospital may send bills

HRONOLAINST 12810.1

directly to the Human Resources Office, New Orleans, Louisiana 70142-5200 for forwarding to OWCP, or directly to the OWCP district office assigned to the case.

(8) The employee is responsible for the submission of medical evidence of a traumatic injury to the supervisor within 10 work days after claiming COP. The lack of receipt of such evidence by the supervisor within that time may serve as sufficient reason for termination of COP.

b. Supervisors

(1) The supervisor is responsible for ensuring that the employee receives adequate medical treatment no matter how minor the injury.

(2) The employee may choose to be treated at a Naval medical facility or by a private physician or hospital in the commuting area. If an employee elects to be treated at a Naval medical facility, OPNAV Form 5100/9 should be completed by the supervisor at that time. If further medical attention is necessary, the employee may continue with the Naval medical facility at the discretion of the facility (if he/she was treated there initially) or may select a qualified local physician or hospital.

(3) The immediate supervisor must provide the employee with Form CA-1 for reporting an injury no matter how minor the injury. Upon receipt of the completed CA-1, the supervisor is to complete and return the Receipt of Notice of Injury to the employee. The supervisor must then complete the reverse side of the CA-1, and forward the original to HRO within 2 working days of the date of injury. The employee should be kept in a pay status for any fraction of the regularly scheduled work day or shift in which the injury occurred. Management should advise the employee of the right to elect COP or use annual or sick leave or leave without pay if the injury renders the employee unable to work.

7. Continuation of Pay

a. If unable to work and eligible for COP, the employee is continued in a pay status beginning with the first day or first shift on which the disability begins. If the employee stops work for only a portion of the day or shift (other than the day or shift when disability began) and is carried on COP for only a portion of the day, that day or shift will be considered as one calendar day for COP benefit purposes. If the employee is not

immediately disabled as a result of the injury, COP will begin on the first full day or first full shift when disability begins, if it is within the first 3 months following the date of injury.

b. COP is terminated when:

(1) medical information is received from the attending physician indicating the employee is no longer disabled;

(2) notification is received from OWCP that pay should be terminated;

(3) the employee has not submitted medical evidence of a traumatic injury to the supervisor within 10 work days after claiming COP; or

(4) 45 days have passed.

c. Controversion of Claims for COP

(1) An employee's claim may be controverted and COP discontinued in the following situations:

(a) the disability is determined to be the result of an occupational disease or illness;

(b) the injury or disease occurred outside activity premises, and the employee was not involved in official "off-premises" duties;

(c) the injury was caused by the employee's willful misconduct; the employee intended to bring about the injury or death of self or other person; or the employee was intoxicated or under the influence of narcotics or harmful substances;

(d) the injury was not reported on form CA-1 within 30 days following the injury;

(e) the employee first stopped work 90 days or more following the injury; or

(f) the employee initially reported the injury after his/her employment was terminated.

(2) Circumstances surrounding the injury may lead a supervisor to suspect that a claim is fraudulent, such as:

(a) the employee has told various parties different versions of the nature and circumstances of the injury, or witnesses give different accounts of the facts surrounding the injury (in such cases written, signed, and dated statements should be obtained);

(b) there is reason to believe that on the day of the claimed injury, the employee reported to work with the appearance of a pre-existing condition or injury;

(c) the supervisor or HRO ICPA finds that the employee was receiving the same medical treatment prescribed for the claimed injury prior to the date of the injury, and there is no indication that the previous injury or condition was aggravated, precipitated, or accelerated due to the claimed injury; or

(d) medical reports indicate that the condition arising from a claimed injury is in fact a degenerative condition and cannot be caused by a single incident.

d. Light Duty Assignment

(1) When the physician determines that the employee is not totally disabled, the employee is required to accept any reasonable offer of suitable light or limited duty. Such an offer may be made by telephone, but must be confirmed in writing, and must include a written description of the duties and requirements of the offered position. If a personnel action is involved, the employee will be furnished a copy of the Standard Form 50 prior to the effective date.

(2) COP will be paid if the employee has been assigned light duty documented by a formal personnel action (Standard Form 50) and pay loss results (e.g., the employee is placed in a light duty position at a lower pay). COP will also be paid if the light duty consists of work at the employee's current grade level, but for fewer than the usually scheduled number of hours.

(3) COP is terminated as of the date the employee refuses to accept work offered or after 5 workdays from the date of the offer, whichever is earlier. OWCP will then determine entitlement based on medical reports and duties of the offered position and issue a formal decision concerning payment of COP.

8. How to File for Compensation

a. Employee Action

(1) An injured employee who has received 45 calendar days of COP and is still disabled can file a claim for compensation. The employee must complete Part A of Form CA-7/CA-20, "Claim for Compensation on Account of Traumatic Injury/Attending Physician's Report" and submit it to the supervisor within 5 working days following the 45-day period.

(2) If the employee's physician indicates that the employee will be disabled more than 45 days, the employee should notify the supervisor and HRO ICPA as soon as possible. Prompt notification will minimize delays in making claim for continued compensation.

(3) The employee may elect to use sick leave or annual leave prior to using leave without pay (LWOP), and at a later date request "buy-back" of leave on Form CA-7 or Form CA-8. See paragraph 9c of this instruction for procedures on leave buy-back.

(4) Each physician's bill, fully itemized, must be submitted on Form HCFA-1500 or on OWCP-1500. All hospital bills, fully itemized with appropriate current procedural terminology (CPT) codes, must be submitted on Form UB-82. The injured employee may claim reimbursement from OWCP for medical expenses which he/she has paid by sending properly itemized and receipted bills (HCFA-1500 or UB-82) to OWCP. Copies of all bills or any other information should be forwarded to the HRO ICPA. All claims for medical expenses must be fully supported by medical reports. A claim for any travel expenses incurred to obtain medical care may be made on SF-1012, "Travel Voucher Memorandum."

b. Supervisor's Action

(1) The supervisor must complete Part B of CA-7/CA-20 when submitted by the employee and forward it to the HRO ICPA.

(2) If an employee elects compensation and is subsequently carried in a LWOP status for 30 days due to the injury, an SF-52 authorizing LWOP must be submitted to the HRO Personnel Operations Department (Code 032) or applicable HRO Field Office. The SF-52 must state in the "Remarks" section that the employee is receiving compensation due to an on-the-job

injury. An SF-52 must also be submitted to terminate LWOP unless the termination date is specified on the SF-52 authorizing LWOP.

(3) The HRO ICPA should be immediately notified when the employee returns to work; Form CA-3, "Report of Termination of Disability for Payment," is completed by the supervisor to notify OWCP in writing.

9. Benefits

a. Compensation in lieu of COP. An employee excluded from COP may be eligible to receive compensation benefits from OWCP provided all requirements for FECA compensation payments are met.

b. Compensation. Compensation is based on loss of wages and is payable, subject to a 3 day waiting period, after the 45th day in traumatic injury cases, or from the beginning of pay loss in all other types of injuries.

c. Buy-Back of Leave. An employee may decide to take sick leave, annual leave, or both to avoid interruption of income. If the employee elects to take leave and the compensation claim is subsequently approved, the employee may arrange to have the leave reinstated to his/her leave account. Costs associated with leave buy-back are partly paid by the compensation to which the employee is entitled. The balance of the cost of leave buy-back is paid by the employee. The amount the employee will be required to pay will depend on such factors as the length of the period of disability and the amount of Federal income tax which is withheld from leave pay. The cost of leave buy-back will be furnished to the employee, upon request, by the servicing payroll office. An employee who decides to buy-back leave may file a claim for compensation on Form CA-7 or Form CA-8, while still in a leave status. The HRO ICPA is available to assist employees interested in buy-back of leave.

d. Death Benefits

(1) Funeral and burial expenses. Up to \$800 may be paid for funeral and burial expenses resulting from the work-related death of an employee. Itemized funeral bills may be submitted to OWCP for reimbursement. If death occurs away from the employee's place of residence, costs for transporting the body to the burial site will be paid in full. In addition, a \$200 allowance will be paid to the personal representative of the deceased employee in consideration of the expense of terminating the decedent's status as a Federal employee.

(2) Dependent benefits

(a) A surviving spouse with no eligible children is entitled to compensation at the rate of 50% of the deceased employee's pay; benefits are paid until death, except if the surviving spouse remarries before age 60. In the event of such remarriage, OWCP makes a lump-sum payment equal to 24 times the monthly compensation at the time of remarriage. The benefits of a spouse who remarries after the age of 60 are not affected.

(b) If the surviving spouse has children eligible for benefits, compensation for the spouse will equal 45% of the deceased employee's regular pay plus an additional 15% for each child, up to a maximum of 75% of the deceased employee's regular pay. The children's portion is paid on a share and share-alike basis. A child is entitled to compensation until he/she dies, marries, reaches 18 years of age, or, if over 18 and incapable of self-support, becomes capable of self support. An unmarried child under 23 years of age who is a full-time student may qualify if he/she has not completed 4 years of schooling beyond the high school level. Compensation may not, however, be continued beyond the end of the semester or enrollment period after the child reaches 23 years of age or has completed 4 years of school beyond the high school level.

e. Disability

(1) Loss of wage-earning capacity. An injured employee who is unable to return to usual employment because of partial disability as a result of work-related injury may receive compensation computed on loss of wage-earning capacity at the time of injury. The compensation will equal 66 2/3% of the employee's pay if there are no dependents, or 75% of pay if there is a dependent. The compensation will be paid for the duration of loss of wage-earning capacity.

(2) Scheduled awards. Compensation is provided for specified periods of time in cases of permanent loss or impairment of a member, organ, and/or functions of the body, or for serious disfigurement of the head, face, or neck. Compensation for proportionate periods of time is payable for partial loss or loss of use of each member, organ, or function.

f. Dual Benefits

(1) Office of Personnel Management (OPM) retirement/survivor annuity and worker's compensation. Individuals may not receive concurrent compensation from OWCP and retirement

benefits/survivor annuity from OPM; they may elect to receive the more advantageous benefit.

(2) Military retirement/retainer pay and workers compensation. An employee may receive both worker's compensation and military retirement pay, retainer pay, or equivalent pay for service in the armed forces or other uniformed services, subject to the reduction of such pay in accordance with 5 USC 5632(b).

10. Cases Involving Liability of a Third Party. The OWCP has the right to be reimbursed from damages recovered in any case of injury or death which creates a legal liability upon a party other than the United States. Employees/survivors claiming compensation should not attempt to settle a third-party claim arising from an injury or death without first obtaining advice and approval from the District Director, DOL, OWCP. In such cases, supervisors should inform employees of these requirements; the HRO ICPA is also available to provide advice and assistance.

11. Procedures to Follow When Disability Due to an Injury Recurs. The employee will notify his/her immediate supervisor whenever there is a recurrence of an injury and the employee is disabled for work. Upon receiving notice of a recurrence of injury, the supervisor will assist the employee in completing a Form CA-2a, "Federal Employee's Notice of Recurrence of Disability and Claim for Continuation Pay/Compensation," and promptly forward it to the HRO ICPA for further processing.

12. Return-to-Work (RTW) Program

a. It is DON's policy that no employee or former employee able to work will be placed on COP or be permitted to remain on injury compensation if light duty can be made available or accommodation for the physical/mental condition can be made.

b. An effective RTW Program requires concerted, on-going support from all levels of management and employee organizations, and assistance from several critical sources, e.g., the ICPA, human resources office, the safety and health office, District OWCP, the employee's private physician(s), and the injured employee's supervisor. The ICPA, in conjunction with personnel specialists and selective placement coordinators, will take the lead in placing injured employees in suitable positions. The safety and health office and private physician(s) must document an injured employee's medical restrictions, fully evaluate medical information, and advise supervisors in the restructuring of work assignments in order to accommodate an injured employee's medical restriction(s). The district OWCP will help in the

development and implementation of the RTW Program, especially for long term injuries.

c. Final determination concerning the suitability of job offers to a partially disabled employee and the reasonableness of an employee's refusal to accept an offer are the responsibility of OWCP.

Carole E. Martinez
CAROLE E. MARTINEZ

Distribution:
(HRONOLAINST 5216.1F)
Lists B and C3